REMARKS

In view of the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1, 2, 4-16 and 45-54; the only claims pending and currently under examination in this application.

Claims 1, 2, 10, 47 and 48 have been amended to provide antecedent basis for certain terms as suggested by the Examiner. Support for all of these amendments can be found at least in the claims as originally filed. As the above amendments introduce no new matter and place the claims in condition for allowance, their entry by the Examiner is respectfully requested.

A number of rejections were raised under 35 U.S.C. § 112, second paragraph. It is believed that each of the issues raised by the Examiner have been addressed by the above amendments. As such, this rejection may be withdrawn.

The Examiner has maintained the rejection of Claims 1, 2, 4-16, 45-46 under 35 U.S.C. § 102(e) as being anticipated by Cattell (U.S. Patent Application Publication No. 2002/0102559).

In maintaining this rejection, the Examiner has asserted that the claims still do not distinguish over the cited 2002/0102559 publication because the specific information that is saved and retrieved in the claimed methods is not to be afforded any patentable weight in view of the decision by the Board. The examiner further reasons that recently added steps (e) and (f) are also not to be afforded any patentable weight.

However, the claims in their present form now include steps which are fundamentally different from that considered by the Board. The Board's decision was based solely on a "saving" step. The claims now include additional elements of (d) directed to actions that occur in a processing step, (e) directed to reading an array and (f) directed to processing data obtained from reading an array. Steps (d), (e) and (f) are positive steps that are not the same as the saving step previously considered by the Board and should be afforded patentable weight.

In the Applicants' previous response, the claims were amended to include the positive steps of performing at least one of:

(e)   reading said array according to an algorithm of said one or more automatically selected machine readable algorithms; and

(f)   processing data from reading said array based on said retrieved array related data.

These elements of the claims have further been amended in the present response to read:

(e)   reading said array according to an algorithm of said one or more automatically selected machine readable algorithms to obtain data; and

(f)   processing data from reading said array based on said retrieved array related data to obtain a result.

In maintaining the rejection, the Examiner asserted that the above elements merely amount to "retrieving data and selecting algorithms at a user location." The Examiner further stated that steps (e) and (f) "do not result in a physical transformation or provide a tangible result." The Examiner does not explain the significance of this last statement. However, it is assumed that the Examiner is using this statement to support a finding that steps (e) and (f) do not carry any patentable weight.

However, elements (e) and (f) should be afforded patentable weight. These elements specify that one either: reads the array according to an algorithm whose selection is made based on array related data generated when the array was fabricated; or processes data obtained from reading the array according to array related data generated when the array was fabricated.

As such, these elements provide for specific ways to read an array to obtain data or process the data to obtain a result. The obtained data or results are "tangible results."

As such, in contrast to the Examiner's interpretation, the claims are not limited to merely specify retrieving data and selecting algorithms without further limitation.

The Office has not pointed to any location of the 2002/0102559 publication that teaches steps (e) and (f) of the claimed method.

Accordingly, Claims 1, 2, 4-16, 45-46 are not anticipated under 35 U.S.C. § 102(e) by Cattell (U.S. Patent Application Publication No. 2002/0102559) and this rejection may be withdrawn.

The Examiner has next maintained the rejection of Claims 1, 2, 4-16, 45-46 under 35 U.S.C. § 102(e) as being anticipated by Cattell (U.S. Patent No. 6,180,351).

In maintaining this rejection, the Examiner has asserted that the claims still do not distinguish over the cited 351 patent because the nature of the information that is saved and retrieved in the claimed methods is not to be afforded any patentable weight in view of the decision by the Board.

The claims have been amended to include the positive steps of performing at least one of:

(e)   reading said array according to an algorithm of said one or more automatically selected machine readable algorithms to obtain data; and

(f)   processing data from reading said array based on said retrieved array related data to obtain a result.

The Office has not pointed to any location of the '351 patent that teaches these steps of the claimed method.

Accordingly, Claims 1, 2, 4-16, 45-46 are not anticipated under 35 U.S.C. § 102(e) by Cattell (U.S. Patent 6,180,351) and this rejection may be withdrawn.

The Examiner has maintained the rejection of Claims 1, 2, 4-16, 45-46 under 35 U.S.C. § 103(a) as being obvious over Perttunen in view of Ellison.

In maintaining this rejection, the Examiner has asserted that the claims still do not distinguish over the cited combination of Perttunen in view of Ellison because the nature of the information that is saved and retrieved in the claimed methods is not to be afforded any patentable weight in view of the decision by the Board.

The claims have been amended to include the positive steps of performing at least one of:

     (e)   reading said array according to an algorithm of said one or more automatically selected machine readable algorithms to obtain data; and

     (f)   processing data from reading said array based on said retrieved array related data to obtain a result.

The cited combination of Perttunen in view of Ellison fails to teach or suggest these steps of the claimed method.

Accordingly, Claims 1, 2, 4-16, 45-46 are not obvious over Perttunen in view of Ellison under 35 U.S.C. § 103(a) and this rejection may be withdrawn.

Finally, Claims 45 and 46 continue to be rejected under 35 U.S.C. § 103 as being unpatentable over Perttunen in view of Ellison, and further in view of Zelany (U.S. Patent No. 6,215,894).

As reviewed above, Perttunen and Ellison taken alone or in any combination, fail to teach or suggest at least the elements of:

(e)   reading said array according to an algorithm of said one or more automatically selected machine readable algorithms to obtain data; and

(f)   processing data from reading said array based on said retrieved array related data to obtain a result.

Since Zelany is cited solely for its disclosure of including data on the presence or absence of a control probe, the cited combination still fails to make up the deficiency of the substance of the machine readable instructions of the claimed invention.

Therefore, it is respectfully submitted that since the cited combination of references still fails to teach an element of the rejected claims, they fail to render the claimed invention obvious. As such, the rejection of claims 45 and 46 under 35 U.S.C. § 103 may be withdrawn.

CONCLUSION

The Applicants respectfully submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone Bret Field at (650) 327-3400. The Commissioner is hereby authorized to charge any fees which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-1078.

Respectfully submitted,

Date: October 4, 2007

By: _____
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